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BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

KRISTIN K. MAYES - Chairman
GARY PIERCE
PAUL NEWMAN
SANDRA D. KENNEDY
BOB STUMP

2010 DEC -6 P 12:01

AZ CORP COMMISSION
DOCKET CONTROL

Arizona Corporation Commission

DOCKETED

DEC 6 2010

DOCKETED BY

[Signature]

LYNN A. WHEELER,
COMPLAINANT,

V.

ARIZONA PUBLIC SERVICE COMPANY,
RESPONDENT.

DOCKET NO. E-01345A-10-0201

**PROCEDURAL ORDER EXTENDING
DEADLINE AND RESETTING
HEARING DATE**

BY THE COMMISSION:

On May 17, 2010, Lynn A. Wheeler ("Complainant") filed with the Arizona Corporation Commission ("Commission") a formal complaint ("Complaint") against Arizona Public Service Company ("APS"), alleging that APS provided unreasonably low electrical power to Complainant's motel and irreparably damaged the motel's heating/air conditioning units.

On June 14, 2010, APS filed an Answer to the Complaint, generally denying the allegations and requesting that the Commission dismiss the Complaint with prejudice.

On August 18, 2010, by Procedural Order, APS' request to dismiss the Complaint was denied, and a procedural conference was scheduled for September 8, 2010, to discuss the procedural schedule in this matter.

On September 8, 2010, the procedural conference was held as scheduled. APS appeared through counsel, and Mr. Wheeler appeared on his own behalf. During the proceeding, hearing dates and other procedural deadlines were discussed.

On October 19, 2010, by Procedural Order, the hearing in this matter was scheduled for January 26 and 27, 2011, and the Complainant was directed to file, among other things, his direct testimony and associated exhibits by November 19, 2010.

On November 18, 2010, Complainant filed a Request for Extension of Timeline Dates

1 ("Motion") requesting a 30-day extension of time to file direct testimony and associated exhibits.
2 Complainant's Motion states that certain parties associated with the Complaint have not been
3 available due to events associated with the November 2, 2010, election and that additional time is
4 needed.

5 No objections have been filed, and Complainant's Motion should be granted.

6 IT IS THEREFORE ORDERED that Complainant's Motion for an extension of time to file
7 direct testimony and associated exhibits in this matter is hereby granted.

8 IT IS FURTHERED ORDERED that the **hearing** scheduled to commence on January 26,
9 2010, shall be continued to **February 23 and 24, 2011, at 10:00 a.m.**, or as soon thereafter as is
10 practicable, at the Commission's offices, 1200 West Washington Street, Room 100, Phoenix, Arizona
11 85007.

12 IT IS FURTHER ORDERED that **Complainant and APS** may conduct discovery through
13 **February 1, 2011.**

14 IT IS FURTHER ORDERED that discovery shall be as permitted by law and the rules and
15 regulations of the Commission, except that: for discovery requests made through **February 1, 2011**,
16 any objection to discovery requests shall be made within three days¹ of receipt and responses to
17 discovery requests shall be made within seven days of receipt, the response time may be extended by
18 mutual agreement of the parties involved if the request requires an extensive compilation effort.

19 IT IS FURTHER ORDERED that, in the alternative to filing a written motion to compel
20 discovery, any party seeking discovery may telephonically contact the Commission's Hearing
21 Division to request a date for a procedural hearing to resolve the discovery dispute; that upon such a
22 request, a procedural hearing will be convened as soon as practicable; and that the party making such
23 a request shall contact all other parties to advise them of the hearing date and shall at the procedural
24 hearing provide a statement confirming that the other parties were contacted.²

25 IT IS FURTHER ORDERED that **Complainant and APS** shall file a joint Status Report
26

27 ¹ "Days" means calendar days.

28 ² The parties are encouraged to attempt to settle discovery disputes through informal, good-faith negotiations before seeking Commission resolution of the controversy.

1 discussing any issues raised in the Complaint that have been resolved on or before **February 14,**
2 **2011.**

3 IT IS FURTHER ORDERED that any Responses to Motions shall be filed within five days of
4 the Motion.

5 IT IS FURTHER ORDERED that any Motions which are filed in this matter and which are
6 not ruled upon by the Commission within 20 days of the filing date of the Motion shall be deemed
7 denied.

8 IT IS FURTHER ORDERED that the **direct testimony and associated exhibits** to be
9 presented at hearing **by Complainant** shall be reduced to writing and filed on or before **December**
10 **20, 2010.**

11 IT IS FURTHER ORDERED that the **rebuttal testimony and associated exhibits** to be
12 presented at hearing **by APS** shall be reduced to writing and filed on or before **January 21, 2011.**

13 IT IS FURTHER ORDERED that the **surrebuttal testimony and associated exhibits** to be
14 presented at hearing **by Complainant** shall be reduced to writing and filed on or before **February 4,**
15 **2011.**

16 IT IS FURTHER ORDERED that any **rejoinder testimony and associated exhibits** may be
17 presented during the hearing.

18 IT IS FURTHER ORDERED that **any objections to testimony or exhibits** that have been
19 filed as of February 4, 2011, shall be made on or before **February 11, 2011.**

20 IT IS FURTHER ORDERED that **any substantive corrections, revisions, or supplements**
21 **to the pre-filed testimony** shall be reduced to writing and filed no later than **February 14, 2011.**

22 IT IS FURTHER ORDERED that the Ex Parte Rule (A.A.C. R14-3-113-Unauthorized
23 Communications) applies to this proceeding.

24 IT IS FURTHER ORDERED that all parties must comply with Rules 31 and 38 of the Rules
25 of the Arizona Supreme Court and A.R.S. § 40-243 with respect to practice of law and admission *pro*
26 *hac vice.*

27 IT IS FURTHER ORDERED that withdrawal of representation must be made in compliance
28 with A.A.C. R14-3-104(E) and Rule 1.16 of the Rules of Professional Conduct (under Rule 42 of the

Rules of Arizona Supreme Court). Representation before the Commission includes the obligation to appear at all hearings and procedural conferences, as well as all Open Meetings for which the matter is scheduled for discussion, unless counsel has previously been granted permission to withdraw by the Administrative Law Judge or the Commission.

IT IS FURTHER ORDERED that the Administrative Law Judge may rescind, alter, amend, or waive any portion of this Procedural Order either by subsequent Procedural Order or by ruling at hearing.

DATED this 6th day of December, 2010.


YVETTE B. KINSEY
ADMINISTRATIVE LAW JUDGE

Copies of the foregoing mailed/delivered this 6th day of December, 2010, to:

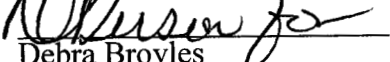
Lynn A. Wheeler
JALLL LLC
902 Leisure World
Mesa, AZ 85206

Thomas A. Mumaw
ARIZONA PUBLIC SERVICE CO.
P.O. Box 53999
400 North 5th Street, M/S 9708
Phoenix, AZ 85004

Janice Alward, Chief Counsel
Legal Division
ARIZONA CORPORATION COMMISSION
1200 West Washington Street
Phoenix, AZ 85007

Steve Olea, Director
Utilities Division
ARIZONA CORPORATION COMMISSION
1200 West Washington Street
Phoenix, AZ 85007

ARIZONA REPORTING SERVICE, INC.
2200 North Central Avenue, Suite 502
Phoenix, AZ 85004-1481

By: 
Debra Broyles
Secretary to Yvette B. Kinsey